(6)

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 5286 OF 2005

PETITIONERS :

1. Abdul Salim , S/o Late Shri Abdul Nabi,, Aged about 70 years, Occupation – Dairy Shop situated at Brihaspati Bazar Bilaspur, Tahsil and Distsrict Bilaspur (CG).
2. Suresh Shirvas S/o Late Lakhan Lal Shrivas, aged about 38 years (Saloon shop)
3. Nadim Mohammad S/o Sagir Mohd, aged 30 years (Hardware shop).
4. Shahid Mohd S/o Sheikh Mohd, aged about 35 years, Kushan shop
5. Yashwant Pratap Singh S/o Salig Ram Singh, agd abour 38 years, (Rubber stamp shop).
6. Basant Lal S/o Ranchor, aged about 60 years, cycle store.
7. Abdul Azad S/o Abdul Rajjak, aged about 45 years, PAAN SHOP.
8. Sajjad Khan S/o Rajjak Khan, aged about 40 years, Welding shop.
9. Samad Khan S/.o Himayad Khan , aged about 45 years, Motor Cycle Mechanic shop).
10. Sanjiv Nahave S/o M.Nahave, aged about 40 years, Servicing Centre.
11. Subhash Tamrakar S/o Hori Lal Tamrakar, aged about 40 years, Saloon shop.
12. Puspha Tiwari W/o Shailendra Tiwari , aged about 40 years, Electronic shop).
13. Ram Avtar S/o Muktinath Verma, aged about 45 years, Building material supplier.
14. Veeru Yadav S/o Late Hori Lal Yadav, aged about 21 years, Book Binding Shop.

P.R. No. 5545/05
Presented by Shri Sumit Sahu
dated 22/10/05

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Bilaspur Chhattisgarh

15. Sukwara Bai W/o Late Besakhu Ram Yadv S/o Faguva Ram Yadav, aged about 55 years, Tea shop.
16. Mahesh Kumar Yadav S/o Late Sagram Yadav , aged about 35 years, Tea Shop

All shops are situated at Brihaspati Bazar and they are resident of Brihaspati Bazar Bilaspur, Tahsil and District Bilaspur (CG).

VERSUS

RESPONDENTS :

(1) State of Chhattisgarh, through the Secretary , Nagariya Prashasan, nt, D.K.S. Building, Raipur (C.G.)

(2) Commissioner , Municipal Corporation, Bilaspur, Tahsil and District Bilaspur (CG).
(3) Chief Municipal Officer, Municipal Corporation Bilaspur, Tahsil and District Bilaspur (CG).
(4) Collector, ~~Raipur~~ Bilaspur (CG).

WRIT PETITION U/A 226/227 OF THE CONSITITUTION OF INDIA

(62)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WPC/2586/05... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-11-2005 Shri Sunil Sahu, counsel for the petitioners. Shri Yashwant Singh Thakur, Govt. Advocate for the State/respondents No.1 and 4. Shri P. Diwakar, Sr. Advocate with Shri Ashutosh Kachchawaha, Advocate for respondents No.2 and 3. Reply has already been filed on behalf of respondents No.2 and 3. Heard learned counsel for the parties on admission. The petitioners' case is that since 1980 the petitioners are occupying the present place where their shops are existing on temporary lease granted by the Municipal Corporation, Bilaspur and that lease was being renewed on year to year basis. Prior to 1980, the petitioners were occupying the land in front of the District Hospital, Bilaspur on the ground of extension of the building of the District Hospital. The petitioners were asked to shift to the present place. They were rehabilitated and granted temporary lease. Now, the respondents are trying to remove the petitioners from the present place with the ulterior motive on the ground of widening of the road. There is an open space behind the existing shops of the petitioners. The petitioners can be shifted to that place if the respondents want to widen the road, but with malafide intention, instead of acting in a fair manner respondents want to remove the shops of the petitioners from the aforesaid place, therefore, respondents be directed to construct the shops on the open space which is just behind the petitioners' shops, and only thereafter the petitioners' shops should be removed from the existing place.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Reply has been filed on behalf of the respondents No.2 and 3 in which it has been mentioned that the petitioners' shops are opening on the road which runs between Devkinandan Chowk to Shivaji Chowk. Behind the petitioners' shops there is Brahaspati Bazar (vegetable market). It is proposed to widen the road between Devkinandan Chowk to Shivaji Chowk up to 60 feet as the traffic has increased on account of increase in population and the road is being widen for the smooth movement of the traffic, in order to avoid the accident and for the convenience of the public. Brahaspati Bazar (vegetable market) is being used by the vegetable venders where the general public come to purchase the vegetables. After widening of the road if any open place will be left, same will be used for the purpose of parking of the vehicles. Certain portion of the road in question has already been widened between 'B' to 'C' point as shown in the map attached with reply, remaining work of widening of the road has been stopped on account of the petitioners' shops. It has also been mentioned in para-4 of the reply that the petitioners have been offered 3 alternative sites where they can be shifted i.e. near Idgah Chowk, Torwa Naka and Nutan Chowk, Sarkanda. If the petitioners want just behind the Brahaspati Bazar (vegetable market) on the first floor the Corporation can construct the shops and give the same to the petitioners, as the ground floor the market is in occupation of other shopkeepers. The claim of the petitioners that there is already enough open space between the petitioners' shops and the vegetable market is incorrect, therefore, there is no merit in the petition and same be dismissed.

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioners argued that even if the respondents want to widen the road existing open space behind the petitioners' shops can be utilized for the purpose of shifting the petitioners and for that purpose sufficient open space is there.

On the other hand, learned counsel for the respondents No.2 and 3 argued that contention of the petitioners that there is sufficient open space is not correct. There is Brahaspati Bazar (vegetable market). After widening of the road if any open space will be left out, same will be utilized for the purpose of parking of the vehicles as there is already shops on the other side of the road. He further argued that 3 alternative sites have already been offered to the petitioners where they can be shifted.

Having heard learned counsel for the parties, I have seen the photographs, site plan filed along with the return and perused the pleadings of the parties. It is admitted position that the site in question has been granted to the petitioners temporarily on year to year basis which has been mentioned by the petitioners in the petition also. It is common knowledge that with the passage of time the population of the city of Bilaspur has increased, number of the vehicles have also been increased and on account of that for the smooth movement of the vehicles as well as pedestrians the roads which were constructed more than 75 years back are not able to accommodate the increased traffic and movement of the general public, therefore, in the larger public interest, the Municipal Corporation is bound to take step for widening of the roads for the smooth movement of the vehicles and pedestrians. Therefore, it cannot be said that the action proposed by the Municipal Corporation is not in the public interest. The

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —4—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioners are only temporary lease holders and most of the petitioners' lease has not been renewed after March 2005, therefore, as of right they cannot claim their possession. The Municipal Corporation is genuinely in need of the space occupied by the petitioners for widening the road.

As far as the point raised by learned counsel for the petitioners that there is open space behind their shops, for that it has been mentioned by the Corporation that after widening of the road if any open space will be left out, same will be utilized for the purpose of parking of the vehicles. Moreover, behind the shops of the petitioners, there is Brahaspati Bazar (vegetable market) where general public come for purchase of the vegetables, therefore, open space is required for the general public who come to the Brahaspati Bazar (vegetable market).

As far as rehabilitation of the petitioners is concerned, the Municipal Corporation has already given 3 options to the petitioners for their shifting. The petitioners can opt for any of the options given by the respondents.

In view of the above facts, I am of the opinion that there is no merit in the petition, the writ petition deserves to be dismissed and it is hereby dismissed. No costs.

Consequently, M.(W.)P. No. 4269/2005 and I.A. No.9149/2005 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

Barve

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